

TOWN OF KITTERY, MAINE
PLANNING BOARD MEETING
Council Chambers

APPROVED
May 22, 2014

Meeting called to order at 6:05 p.m.

Board Members Present: Tom Emerson, Karen Kalmar, Deborah Driscoll Davis Davis, Susan Tuveson, Mark Alesse, Bob Melanson, Ann Grinnell

Members absent: none

Staff: Gerald R. Mylroie, AICP, Town Planner; Chris DiMatteo, Assistant Planner

Pledge of Allegiance

Minutes:

April 10, 2014

Ms. Kalmar moved to accept the minutes of April 10, 2014 as submitted

Ms. Driscoll seconded

Motion carried with 6 in favor; 0 opposed; 1 abstention (Melanson)

May 8, 2014

Ms. Kalmar moved to accept the minutes of May 8, 2014 as amended

Ms. Tuveson seconded

Motion carried unanimously

Public Comment:

PUBLIC HEARING

ITEM 1 – Town Code Amendment - Title 16.10.9.1.4. Approved Plan Expiration, Title 16.10.9.1.5 Requests for Extension and Title 16.9.3.8 Expiration of Wetlands Alteration Approval. Action: hold public hearing, review amendment and make recommendation to Town Council for adoption. Proposed amendment reduces the period of time in which extensions can be granted and modifies the process for extension requests.

Public Hearing opened and closed at 6:13 p.m. with no comment

Ms. Kalmar: requested consistency using the term 'applicant' throughout the amendment:

Line 26: ...date upon written request by the ~~developer~~ applicant for an inclusive period from the original approval date....

Line 43: ...extensions to the approval, not to exceed period specified in 16.10.9.1.4.C provided the applicant's request is....

Ms. Tuveson moved to approve as amended

Ms. Kalmar seconded

Motion carried unanimously

Board discussed the cover memo to Council for this amendment and requested approved changes be included prior to the June 2 workshop.

ITEM 2 – Town Code Amendment - Title 16.8.10.1 Signs – Propose and Title 16.8.10.2 Signs – General Requirements. Action: hold public hearing, review amendment and make recommendation to Town Council for adoption. Proposed amendment requires adherence to Kittery Design Handbook.

Public Hearing opened at 6:21 p.m.

Chuck Denault, 11 Melanies Court: Concerned the amendment is creating an atmosphere where signs would appear the same, without diversity or uniqueness. This takes away the rights of individuals to reflect their business and its character as they wish, while trying to be business friendly. A chain business could not meet the requirements of this amendment. It appears a small group of people arbitrarily developed this language.

Public Hearing closed at 6:23 p.m.

Ms. Driscoll: In an earlier review it was requested removal of 'New England small, seacoast and historic town character' from the amendment.

Ms. Grinnell: The Board has asked the Code Enforcement Officer be present to discuss this amendment. The Town is making signs that all look the same, but this should not apply for business owners. The report to council is different from the prior amendment.

Ms. Driscoll: There are other items in the sign ordinance that need to be reviewed and this should be done by a larger group for input.

Board members discussed format for presentation to Council. Mr. Emerson: It was agreed to utilize the Board designed format (Ordinance Revision Memorandum) unless Council found it to be inadequate.

Mr. Mylroie: This is for public hearing background information and the proper format will be used when it goes to Council. The Comprehensive Plan vision references Kittery's New England small, seacoast and historic town character. This was deleted from part of the original amendment, but remains as reference to the Comp Plan vision. Discussion followed zone standards referencing the same, the Design Handbook, and design standards already in place. The CEO would like clarification in the sign ordinance when reviewing applications, which this amendment intends to do. If a company has a logo, the frame establishes the uniqueness as referred to in the Comp Plan vision. There are other items in the sign ordinance that will be presented for amending. The language regarding the Design Handbook, *hereby adopted as part of this Town Code*, can be removed as the Handbook has been adopted. This is not an effort to create same frames for all signs, choke business, or stifle creativity. It is intended to respond to citizens and the Comp Plan.

Ms. Grinnell: The Code Enforcement Officer should be consulted, and any other issues listed prior to Board action. Mr. Emerson: The Code and the Handbook do not line up and the Board should take an opportunity to observe signs in town and review the sign ordinance. Requested Ms. Driscoll find the Comp Plan update language regarding this vision statement.

Mr. Melanson moved with regard to Title 16.8.10 Design and Performance Standards, further review be continued to the second meeting in June

Ms. Driscoll seconded

Motion carried unanimously

ITEM 3 – Quality Improvement Plan for Kittery Shore and Harbors

Action: review and make recommendation to Town Council for adoption. Town advisory committee is transmitting draft plan for Town Planning Board review, hearings and recommendation to Town Council for adoption. The QIP Plan is a specific plan that includes goals/policies and implementation strategies for improving/protecting the Town's shores and harbors. Town Planner, Gerald R. Mylroie, AICP will make a presentation.

Mr. Mylroie introduced John Edgerton, Wright-Pierce Engineers. A slide presentation followed, outlining the planning process, development and components of the plan.

Melissa Paley: How might the Maine Island Trail Association work with the Plan to encourage stewardship and access and involvement with other stakeholders?

Mr. Edgerton: It is conceivable that Ms. Paley's involvement would be beneficial in specific project development under the Plan's general direction.

Mr. Melanson: Would Rogers Park be included in the Trail Association? Ms. Paley: Recently Fishings Island, Smuttynose and Fort Foster have been included and they would like to include Eagle Point, which Maine Island Trails could maintain and foster.

Mr. Mylroie: Another option would be for interested parties, such as Ms. Paley, could propose changes to the Plan prior to adoption.

Earldean Wells: Read a prepared statement regarding ordinance changes to allow holding tanks in the shoreland zone (Attached).

Mr. Melanson: Ms. Wells is referring to the request to include an additional tight tank at the Pepperrell Pier as part of the BIG project. Pam Parker of the DEP has supported the use of a tight tank for this purpose (marine related use), and the proposed amendment is for this intended use, not for entire shoreland zone in Kittery. The DEP is encouraging this, and without it, the impact on disposal of effluents at sea would be significant.

Ms. Grinnell: The Board should read the entire document and discuss prior to moving forward to Council. There are areas of the town missing [i.e. Spinney Creek, Wood Island Advisory Committee]. Has the Comprehensive Plan Update Committee seen this document?

Mr. Alesse: This appears ready to move forward.

Ms. Driscoll: Has this document been reviewed and accepted by the Port Authority? There are a number of items they will be primarily responsible for implementation. Is the name of the Planning Board (page 4), the Kittery Planning Board or the Town Planning Board? Mr. Emerson: Kittery Planning Board.

Mr. Melanson: The Port Authority has participated, but a formal acceptance has not been made. This plan involves many groups within Kittery who will all be involved with program completion. It's ready to go.

Ms. Tuveson: Agrees, the plan appears ready to go forward.

Mr. Edgerton: This is a standalone document as a condition of grant funding.

Mr. Emerson: The Council will most likely ask these questions. He would like to see responses from the Comp Plan Update Committee and Port Authority, inclusion of the Wood Island Advisory Committee and Maine Island Trail Association (in note form), inclusion of other town areas not identified in the document, accurate representation of meetings regarding rankings, i.e. access vs. maintenance. The Comp Plan should reference this publication.

Peter Walsh, Project Coordinator, Shore and Harbor Plan: Provided at least two drafts for review and provided continuous updates to the Port Authority during the Plan's development. This final plan was not provided to Port Authority members, but has been posted on the web site.

Ms. Kalmar: Could the table of contents include page numbers?

Ms. Grinnell moved to continue discussion of the Quality Improvement Plan for Kittery Shore and Harbors.

Ms. Tuveson seconded

Motion carried unanimously

Ms. Grinnell: When this comes back for review, a significant amount of time should be set aside for discussion.

Break

OLD BUSINESS

ITEM 4 – Town Code Amendment – Chapter 2, Definitions, Chapter 3, Article 2, Section 17 Shoreland Overlay Zone, Chapter 7, Article 3 Nonconformance and Chapter 8, Article 28 Single and Duplex Family Dwellings in the Shoreland Overlay Zones in Title 16 Land Use Development Code. Action: review amendment and make recommendation to Town Council for adoption. Amendment includes changes to the town's Shoreland zoning to comply with the Maine Department of Environmental Protection 2000 and 2010 conditional approvals.

Mr. DiMatteo: Summarized the proposed changes to the ordinance, per DEP reviews; formatting, typo and grammar changes and re-inclusion of a mistakenly removed section and re-numbering of notes (16.3.2.13.D. Notes 1-3).

Ms. Kalmar moved to accept amendment with changes and contingent upon the DEP acceptance

Ms. Tuveson seconded

Motion carried unanimously

ITEM 5 – Board Member Items / Discussion

A. Action List: Need for consideration:

- Amendment language for major/minor field changes;
- Revisit DPW list;
- Board By-Laws;
- 1-3 acre minimum;
- Open Space Committee and subdivision review;
- Sea rise/climate change (add to Comp Plan list)

B. Committee Updates

- Comp Plan Update: No meeting in over one month; currently with Vern Gardner.
- KPA: BIG project on schedule; concerns raised by fishing community regarding use of portion of structure, in discussions with engineers; website and live webcam.
- Economic Dev. Cmte: No report
- Foreside Parking: Considering changing Government St. to one-way; change in parking; bike and pedestrian lanes; consider no left turns during shipyard p.m. traffic; impact of bridge changes; Love Lane removable speed bumps;

C. Other

- Melanson: Requested agendas be shortened to avoid 4 hour meetings

ITEM 6 – Town Planner Items:

- A. Town Code amendment related to Quality Improvement Overlay Zone - Work in progress.
- B. Town Council/Planning Board joint workshop scheduled for June 2, 2014 at 6 p.m. Agenda and time frame will be developed for workshop; Briefing Book .
 - Chairman Thompson has agreed to consider a separate workshop on net residential density
 - Foreside seating should be discussed as soon as possible
- C. Memorial Circle: Cost analysis for improvements
- D. Sarah Long Bridge: Landscaping and signage discussions; parking design; fishing pier;
- E. CIP projects: CIP Committee to workshop with Council to discuss additional capital improvement projects through bonding.
- F. Dedication of Memorial Park on Monday, May 26, 2014.

Ms. Kalmar reviewed enactment language for Item 1 and noted errors to be corrected.

NEW BUSINESS

ITEM 7 – Town of Kittery MS-4 / Stormwater Discharges General Permit

Information regarding the Town's General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS-4 permit) will be presented by the Town's Shoreland/Environmental Resource Officer, Jessa Kellogg.

Not discussed; Board members will forward surveys to Mr. DiMatteo.

Ms. Tuveson moved to adjourn
Ms. Grinnell seconded
Motion carried by all members present

The Kittery Planning Board meeting of May 22, 2014 adjourned at 9:03. p.m.
Submitted by Jan Fisk, Recorder, May 31, 2014

ATTACHMENT

Quality Improvement Plan for Kittery Shore and Harbors Ordinance Change to Allow Holding Tanks in Shoreland Zone May 22, 2014

The Kittery Conservation Commission has concerns regarding the proposed change to the Kittery Land Use Ordinance to allow holding tanks in the Shoreland Zone for municipal facilities located within the Commercial Fisheries/Maritime Uses Overlay Zones.

1. KCC is concerned that this will 'open the door' for other maritime or related concerns to request holding tanks within the Shoreland Zone.
2. Many years of water quality testing done by volunteers for KCC, Spruce Creek Assn. and Shellfish Committee that have led to improving the water conditions in Kittery by locating failing septic systems, existing straight lined toilets and other situations that were polluting Spruce Creek and the waters around Kittery, could be undone with just one holding tank failure.
3. Since enforcement has been a problem in Kittery for some time, KCC has further concerns regarding proper installation; regular/timely inspections by a certified professional with a written report submitted to an authority in town; a proper maintenance schedule developed and adhered to; regular/timely proper emptying of the holding tank using all precautions to insure there is no spillage.
 - a. Who will be the responsible person for the above; who in authority will be named to make sure the responsible person is properly overseeing the holding tank.
 - b. What will be the repercussions if there is a failure or accident? Who will pay for the repairs and cleanup?
 - c. The danger of contamination is not limited to just Pepperill Cove and Spruce Creek, but could also involve Fort Foster, the Piscataqua River and Back Channel, the Foreside and beyond.

KCC is very concerned and request that the Planning Board take the time to carefully review the possible repercussions of allowing a holding tank in the Shoreland Zone.

Evelyn Wells, chair